

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Del Shea Perry,

Court File No.: 19-cv-2580 (ECT/LIB)

Plaintiff,

vs.

**STATEMENT OF THE CASE FOR
THE MEND DEFENDANTS**

Beltrami County, et al.,

Defendant.

Pursuant to this Court's Pretrial Conference Notice and Order (ECF No. 17), Defendants MEnD Correctional Care, PLLC, Todd Leonard, MD, Stephanie Lundblad, Crystal Pedersen, Michelle Skroch, and Madison Brewer (collectively "the MEnD Defendants") submit this statement of the case. The MEnD Defendants are still investigating the facts of this case and thus this statement represents a recitation of the facts now known or for which the MEnD Defendants have a reasonable basis to believe.

A. Facts of the Case

Hardel Harrison Sherrell was booked into the Beltrami County Jail on August 24, 2018. MEnD Staff completed an initial health assessment of Sherrell on August 25, 2018. Sherrell admitted to illicit drug use in the last month, but Sherrell's main concern was migraines. Sherrell noted a history of traumatic brain injury and respiratory failure. Sherrell was given appropriate medication for his migraines, and MEnD Staff resolved to monitor his blood pressure. MEnD Staff took Sherrell's blood pressure on August 26-30, 2018.

On August 27, 2018, Sherrell complained of pain on the left side of his chest near his collarbone and back pain. Appropriate medications were ordered for Sherrell. On August 28,

2018, Sherrell complained he could not feel his legs or be physically mobile. Appropriate medications, a wheelchair, and a 24 hour activity watch were ordered for Sherrell. On August 29, 2018, Sherrell complained he could not feel his legs and complained of general pain. On August 30, 2018, Sherrell complained he could not feel his legs. MEnD Staff recommended Sherrell be taken to the emergency department, but Sherrell remained at the jail because he was a perceived flight risk. On August 31, 2018, Sherrell complained of being unable to feel the lower half of his body. MEnD Staff again recommended Sherrell be taken to the emergency department. Sherrell was subsequently taken to Sanford Medical Center for a diagnostic evaluation including imaging and testing. No acute disease process or need for hospitalization was identified during this outside diagnostic evaluation and assessment.

On September 1, 2018, MEnD Staff responded to Sherrell's continued complaints regarding his mobility. When MEnD Staff responded, Sherrell admitted to using drugs while in jail and that is why he had been sick. MEnD Staff reminded Sherrell that the emergency room imaging had found no significant reason for his immobility. MEnD Staff recommended Sherrell be seen by a neurologist. On September 2, 2018, MEnD Staff again responded to Sherrell. MEnD Staff recommended jail staff assist Sherrell take a shower and that he remain in a wheelchair. Around 17:00, Sherrell was reported as being nonresponsive. MEnD Staff responded, took Sherrell's vitals and responded with appropriate efforts. An ambulance was called to assist with life-saving efforts. Those efforts were unsuccessful, and Sherrell ultimately died.

Plaintiff has alleged three claims against the MEnD Defendants:

- (1) 42 U.S.C. § 1983 – individual MEnD Defendants
- (2) 42 U.S.C. § 1983 – *Monell* liability against MEnD Correctional Care

(3) Wrongful death against all MEnD Defendants

Plaintiff has also alleged numerous other claims against co-defendants, including outside medical providers along with Beltrami County and Beltrami County employees.

B. Particularized Facts

Section 1983 claims made pursuant to the Eighth and Fourteenth Amendments of the United States Constitution require a showing of deliberate indifference to a serious medical need. Plaintiff cannot show the MEnD Defendants provided medical care to Sherrell that amounts to criminal recklessness. Even at this preliminary stage, the available evidence shows the MEnD Defendants took Sherrell's complaints seriously and responded appropriately.

As regards Plaintiff's wrongful death claim, the MEnD Defendants are not aware of any facts, at this stage, that would support a finding of pecuniary loss.

C. Damages

The MEnD Defendants are not claiming any damages.

Dated: March 6, 2020

/s/ Anthony J. Novak

Anthony J. Novak (#0351106)

Carolyn J. Nearing (#0291791)

Bradley J. Prowant (#0396079)

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